

AMENDED IN ASSEMBLY MAY 27, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 888

Introduced by Assembly Member De La Torre

February 18, 2005

An act to add Article 9 (commencing with Section 40550) to Chapter 5.5 of Part 3 of Division 26 of the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

AB 888, as amended, De La Torre. Air pollution: South Coast Air Quality Management District: ~~rail yard~~ *railyard* equipment emissions.

(1) Existing law designates the State Air Resources Board as the state agency charged with coordinating efforts to attain and maintain ambient air quality standards. Existing law generally designates the state board as the state agency with the primary responsibility for the control of vehicular air pollution, and air pollution control districts and air quality management districts with the primary responsibility for the control of air pollution from all sources other than vehicular sources. Existing law, the Lewis-Presley Air Quality Management Act, designates the South Coast Air Quality Management District (south coast district) as the sole and exclusive authority within the South Coast Air Basin with the responsibility for comprehensive air pollution control. Existing law, the federal Clean Air Act, prohibits any state from adopting or enforcing any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines, but requires the Administrator of the federal Environmental Protection Agency to waive that prohibition, or authorize a state to adopt and enforce standards relating to motor vehicles or motor vehicle engines or to nonroad vehicles or nonroad engines, if a state

determines that its standards are at least as protective of human health as the federal standards.

This bill would authorize the south coast district to establish a ~~rail yard~~ *railyard* equipment emission reduction program by permitting the south coast district to adopt regulations requiring the owner or lessee of any heavy-duty motor vehicle, nonroad engine, or nonroad vehicle to install retrofit controls or replace existing equipment with clean technologies to reduce emissions of air contaminants to the maximum extent feasible, if that vehicle or engine operates substantially in a ~~rail yard~~ *railyard* within the south coast district, as determined by the south coast district. The bill would specify that a regulation adopted pursuant to the bill that is applicable to motor vehicles, shall not be implemented until January 1, 2007.

The bill would also require the State Air Resources Board to submit any regulations adopted by the south coast district to the federal Environmental Protection Agency for a waiver or authorization, unless the state board makes certain findings.

This bill would preclude the south coast district from adopting any regulation within the scope of preemption established by federal regulations.

This bill would declare that if any of its provisions are held invalid, that invalidity shall not affect the validity of other provisions of the bill to the extent the provisions are severable.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) Federal and state health-based ambient air quality
4 standards for ozone and particulates are exceeded regularly and
5 by a wide margin in the South Coast Air Basin. The South Coast
6 Air Basin is one of two areas in the United States designated as

1 extreme nonattainment for the National Ambient Air Quality
2 Standard for ozone. Attaining this standard will require
3 extraordinary efforts by federal, state, and local regulatory
4 authorities working in concert.

5 (2) The federal Environmental Protection Agency recently
6 adopted more stringent 8-hour ozone and PM2.5 particulate
7 standards that will require even greater emission reductions in the
8 South Coast Air Basin. The South Coast Air Basin is designated
9 “Severe 17” for the 8-hour ozone standard, the worst in the
10 nation.

11 (3) Air pollution from rail yard equipment, including
12 yard-tractors, hostlers, cranes, fork lifts, and other mobile source
13 equipment primarily fueled with diesel fuel, contribute to
14 conditions that exceed federal and state ozone and particulate
15 standards in the South Coast Air Basin.

16 (4) Diesel exhaust is designated as a toxic air contaminant and
17 accounts for over 70 percent of the cancer risk from air
18 contaminants in southern California. Communities near rail
19 yards, including, but not limited to, low-income communities and
20 communities of minority populations, are adversely impacted by
21 toxic exhaust from diesel-powered rail yard equipment. In
22 October 2004, the state board released a study of cancer risks in
23 the vicinity of a rail yard in Roseville, California, which
24 estimated that persons in the vicinity of the rail yard are exposed
25 to diesel exhaust at a level that creates a cancer risk of 500 in one
26 million. Emissions from rail yards in the south coast district
27 contribute to regional cancer risks that have been estimated by
28 the district to average 1,400 in a million, with higher risk levels
29 in the vicinity of transportation sources.

30 (5) Emissions from equipment within rail yards are expected
31 to rise as train traffic increases due to increases in international
32 trade. In order to attain state and federal standards for ozone and
33 particulates, as well as to reduce toxic air contaminants, it is
34 necessary that emissions from rail yard equipment be further
35 controlled.

36 (6) Existing state law authorizes the south coast district to
37 adopt regulations controlling emissions from nonvehicular
38 sources, including nonroad engines or vehicles, and authorizes
39 the California Air Resources Board to adopt regulations
40 controlling emissions from vehicular sources. Federal law

1 requires that a waiver or authorization be obtained from the
2 federal Environmental Protection Agency for certain standards or
3 other requirements relating to the control of emissions from
4 specified engines and vehicles.

5 (7) New technologies to reduce diesel particulate and ozone
6 precursor emissions at rail yards are available and are
7 cost-effective. The emission reduction technologies include low
8 sulfur diesel fuel, particulate matter traps, NOx reduction
9 catalysts, emulsified diesel fuel, and other technologies.

10 (8) In 1998, the state board entered into a memorandum of
11 understanding with the Burlington Northern and Santa Fe
12 Railway Company, and the Union Pacific Railroad Company,
13 under which the railroads agreed to utilize by 2010 locomotives
14 in the South Coast Air Basin that meet a specified fleet average
15 emissions limitation. The memorandum of understanding does
16 not contain provisions pertaining to rail yard equipment.

17 (9) The memorandum of understanding referred to in
18 paragraph (8) provides that the railroads may terminate the
19 agreement in the event the state or any political subdivision takes
20 any action to establish any requirement applicable to locomotives
21 or locomotive engines that is within the scope of the preemption
22 established in the Emission Standards for Locomotives and
23 Locomotive Engines adopted by the federal Environmental
24 Protection Agency on April 16, 1998, as set forth in Parts 85, 89,
25 and 92 of Title 40 of the Code of Federal Regulations.

26 (10) The authorization in this act for establishment by the
27 south coast district of a rail yard equipment emission reduction
28 program does not include adoption by the district of a regulation
29 that would constitute a requirement applicable to locomotives
30 that is within the scope of federal preemption referred to in the
31 memorandum of understanding between the state board and the
32 participating railroads. It is therefore necessary to implement
33 legislation to authorize the South Coast Air Quality Management
34 District to implement a rail yard equipment emission reduction
35 program.

36 (b) It is the intent of the Legislature to provide authorization
37 for the South Coast Air Quality Management District to
38 implement a rail yard equipment emission reduction program.

1 SEC. 2. Article 9 (commencing with Section 40550) is added
2 to Chapter 5.5 of Part 3 of Division 26 of the Health and Safety
3 Code, to read:

4
5 Article 9. RAIL YARD EQUIPMENT EMISSION
6 REDUCTION PROGRAM
7

8 40550. The purpose of this article is to authorize the south
9 coast district to establish a rail yard equipment emission
10 reduction program, to decrease the emissions from equipment
11 within rail yards in the south coast district.

12 40551. (a) The south coast district may adopt regulations
13 requiring the owner or lessee of any heavy-duty motor vehicle,
14 nonroad engine, or nonroad vehicle to install retrofit controls or
15 replace existing equipment with clean technologies to reduce
16 emissions of air contaminants to the maximum extent feasible, as
17 determined by the south coast district, if that vehicle or engine
18 operates substantially in a rail yard within the south coast district,
19 as determined by the south coast district. A regulation adopted
20 pursuant to this section that is applicable to motor vehicles shall
21 not be implemented until January 1, 2007.

22 (b) The state board shall submit any regulations adopted by the
23 district pursuant to this section to the federal Environmental
24 Protection Agency for a waiver or authorization pursuant to
25 subdivision (b) or (e), as applicable, of Section 7543 of Title 42
26 of the United States Code, if the south coast district board makes
27 the determinations required by those subdivisions, unless the
28 state board finds, based on evidence presented at a public
29 hearing, that either of the following apply:

30 (1) The proposed waiver or authorization is unnecessary in
31 order for the south coast district to implement the regulations.

32 (2) The proposed waiver or authorization cannot lawfully be
33 granted by the federal Environmental Protection Agency, and no
34 actions could be taken by the state board that would allow the
35 grant of that waiver or authorization.

36 ~~Unless the state board makes one of the findings specified in~~
37 ~~paragraph (1) or (2), the state board shall expeditiously take any~~
38 ~~actions necessary to enable the federal Environmental Protection~~
39 ~~Agency to grant a waiver or authorization, including making any~~
40 ~~required findings or undertaking any required rulemaking. The~~

1 The south coast district shall reimburse the state board for any
2 costs incurred by the state board in implementing this
3 subdivision.

4 (c) For the purposes of this section, “motor vehicle,” “nonroad
5 engine,” and “nonroad vehicle” have the same meaning as those
6 terms are defined in Section 7550 of Title 42 of the United States
7 Code.

8 (d) This section does not apply to new locomotives or new
9 engines used in locomotives as those terms are used in Section
10 7543 of Title 42 of the United States Code.

11 (e) It is the intent of the Legislature that, in adopting
12 regulations pursuant to this section, the south coast district board
13 grant priority to reducing emissions of air contaminants from
14 vehicles and engines that contribute to air pollution problems, or
15 the public health risks associated with air contaminants,
16 including, but not limited to, airborne toxics and particulate
17 matter, in communities adjacent to rail lines within the south
18 coast district with the most significant exposure to air
19 contaminants, localized air contaminants, or both, including, but
20 not limited to, communities of low-income populations.

21 (f) The south coast district may not adopt or implement any
22 regulation pursuant to this section if the state board has adopted a
23 regulation achieving at least the same percentage amount of
24 emission reductions from the same sources.

25 40552. (a) The provisions of this article shall be effective
26 notwithstanding any other provision of law and to the extent
27 permissible under federal law. This article does not authorize the
28 south coast district to adopt any regulation that is within the
29 scope of preemption established by Section 7543 of Title 42 of
30 the United States Code.

31 (b) If any provision of this article or the application thereof to
32 any person or circumstance is held invalid, it is the intent of the
33 Legislature that the invalidity not affect other provisions or
34 applications of the ~~division~~ *article* that can be given effect
35 without the invalid provision or application, and to this end the
36 provisions of this article are severable.

37 (c) This article does not limit the authority of the south coast
38 district established by preexisting law.

39 SEC. 3. No reimbursement is required by this act pursuant to
40 Section 6 of Article XIII B of the California Constitution because

1 the only costs that may be incurred by a local agency or school
2 district are the result of a program for which legislative authority
3 was requested by that local agency or school district, within the
4 meaning of Section 17556 of the Government Code and Section
5 6 of Article XIII B of the California Constitution.

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